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News Release



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Service Completes Review of Critical Habitat for 15 Vernal Pool Species; Revises Critical Habitat in Final Rule

Economic exclusions are modified, based on new analysis

Complying with a court order, the U.S. Fish and Wildlife Service (Service) today publishes its revised designation of critical habitat for 15 vernal pool species in California and Oregon. Based on a new, more finely detailed economic analysis, the Service is exempting 23 census tracts in 11 counties that had been proposed or designated as critical habitat where that designation would have the highest costs.

Twenty tracts are excluded because housing development in them will incur the highest cost impacts from critical habitat. Those 20 census tracts are in Sacramento, Butte, Placer, Solano, Monterey, Fresno, Stanislaus, Madera and Shasta counties.

Two additional tracts are excluded for other significant critical habitat cost factors: a tract in Merced County where the new University of California/Merced campus would incur costs of \$10 million, and a tract in Tehama County where the cost of widening Highway 99 would increase by \$6 million. Finally, the Placer Vineyards Specific Plan in Placer County overlaps two census tracts, so the second tract also was excluded.

If critical habitat had been designated in the 23 tracts, the cost impacts would have reached \$740 million – or nearly 80 percent of total cost of all vernal pool critical habitat. The 2003 critical habitat proposal extended across 158 census tracts. This rule confirms critical habitat on the remaining 135 tracts, both those designated as critical habitat in 2003 and those excluded in that action.

As a result, the total critical habitat for the 15 species designated under this final rule is 858,846 acres, an increase of more than 15 per cent from the 739,105 acres of critical habitat designated in 2003.

The final rule, maps of the critical habitat units, a county-by-county breakdown, the draft economic analysis and other information are available at the Sacramento Fish and Wildlife Office's Web site at <http://www.fws.gov/pacific/sacramento/>. The revised critical-habitat rule becomes effective Sept. 12.

The Service was under court order to publish by July 31 a final critical habitat rule for land previously excluded in five California counties (Butte, Sacramento, Solano, Merced and Madera). In the 2003 rule all proposed critical habitat in the five counties was excluded.

The 15 vernal pool species are protected under the Endangered Species Act (ESA). Four tiny freshwater shrimp were listed as endangered species in 1994. Eleven vernal pool plant species were listed in 1997. On Aug. 6, 2003, the Service designated 739,105 acres of critical habitat for the species in 30 California and one Oregon counties. That designation was a reduction from the 1.7 million acres the Service originally proposed as critical habitat on Sept. 24, 2002.

In January 2004 the Butte Environmental Council filed suit challenging the exclusions. In an Oct. 28, 2004 order, the U.S. District Court for the Eastern District of California directed the Service to reconsider and to provide opportunity for public comment on the exclusion, then publish final critical habitat in two actions.

The first action occurred on March 8, 2005 when the Service confirmed its exclusion of 136,358 acres due to non-economic reasons. That rule may be viewed through the following link: http://www.fws.gov/pacific/sacramento/ea/news_releases/2005%20News%20Releases/VP_non-economic_NR.html. That land had originally been excluded because it was covered by protective measures, including Habitat Conservation Plans (HCPs), tribal and state wildlife and Department of Defense lands.

The second review directed by the court relates to the five counties originally excluded for economic reasons. In its court pleading, the Service advised that “at a minimum, it is appropriate to reopen the comment period, reanalyze all of the areas excluded pursuant to Sec. a (b)(2), and make a new determination.” It is that process which led to the new rule. The court directed the Service to complete its reconsideration of the critical habitat exclusions in the five counties and publish a final critical habitat rule by July 31, 2005. Under the court order, the designated critical habitat in the other 31 counties remained in place during this process.

Critical habitat is a term in the ESA. It identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and may require special management considerations or protection. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. It does not allow government or public access to private lands. Federal agencies that undertake, fund or permit activities that may affect critical habitat are required to consult with the Service to ensure such actions do not adversely modify or destroy designated critical habitat.

When specifying an area as critical habitat, the ESA requires the Service to consider economic and other relevant impacts of the designation. If the benefits of excluding an area outweigh the benefits of including it, the Secretary of Interior may exclude an area from critical habitat, unless this would result in the extinction of a threatened or endangered species.

In 30 years of implementing the ESA, the Service has found that designation of critical habitat provides little additional protection for most listed species, while preventing the agency from using scarce conservation resources for activities with greater conservation benefits.

In almost all cases, recovery of listed species will come through voluntary cooperative partnerships, not regulatory measures such as critical habitat. Habitat is also protected through cooperative measures under the ESA, including Habitat Conservation Plans, Safe Harbor Agreements, Candidate Conservation Agreements and state programs. In addition, voluntary partnership programs such as the Service’s Private Stewardship Grants and the Partners for Fish and Wildlife program also restore habitat. Habitat for listed species is provided on many of the Service’s National Wildlife Refuges, and state wildlife management areas.

The U.S. Fish and Wildlife Service is the principal Federal agency responsible for conserving, protecting and enhancing fish, wildlife and plants and their habitats for the continuing benefit of the American people. The Service manages the 95-million-acre National Wildlife Refuge System, which encompasses 544 national wildlife refuges, thousands of small wetlands and other special management areas. It also operates 69 national fish hatcheries, 64 fishery resources offices and 81 ecological services field stations. The agency enforces federal wildlife laws, administers the Endangered Species Act, manages migratory bird populations, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and helps foreign and Native American tribal governments with their conservation efforts. It also oversees the Federal Assistance program, which distributes hundreds of millions of dollars in excise taxes on fishing and hunting equipment to state fish and wildlife agencies.